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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,019

10/31/2003

Peter Schlegel

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2142

23280

7590

05/17/2006

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EXAMINER

JACKSON, ANDRE L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/699,019

Applicant(s)

SCHLEGEL, PETER

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-33 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 16, 17, 20, 22 and 25-29 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 15, 18, 19, 21, 23, 24 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*DETAILED ACTION*

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 3, 2006 has been entered.

***Claim Objections***

Claims 4, 6 and 26 are objected to because of the following informalities:

Claim 4, 6 and 26 recite the limitation "the acted-upon link" in lines 1 and/or 2. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10-14, 16, 17, 20, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,499,189 to Kondo et al. Kondo et al discloses a hinge apparatus for coupling a lid or flap to a body or base, the hinge apparatus comprising;

Art Unit: 3677

a first link (102); a second link (104); a first spring (8); wherein one of the first link and the second link are to be arranged pivotably on a body (C) of an image apparatus and on a lid/flap (B) of an image apparatus, respectively, wherein when the lid/flap is closed, the first spring pretensions the lid/flap in an opening direction; a drive member (104a) tensioning the lid/flap into the opening direction throughout the opening movement of the lid/flap; a tensioning device (131) tensioning the first spring in a second opening phase of the lid/flap; and a locking device (105) retaining the first spring.

As to claims 3-7, 16, 17, 25 and 26, the first spring is designed as a compression spring and acts upon the first and second links. The first spring defines opposing connection ends projecting toward bearing joints (17, 19) or projections of the first and second links respectively and the first spring pivots along with the second link through opening phases of the lid/flap. The first link includes the tensioning device at an end thereof.

As to claims 10-13 and 22, further, the locking device includes an elongated slide opening (124) and slide pin (116) as a release means of controlling pivoting movement of the first and second link members, which is preferably disengaged or release when the lid/flap is positioned atop the body. The two-part release means is positioned upon the second link.

Claims 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,520,977 to Holzhauser et al. Holzhauser discloses a hinge apparatus comprising;

a first link (36) and a second link (30, 32) for coupling a lid/flap (10) to a body or base (12); a first spring (82) for pretensioning the lid/flap into an opening direction during a first opening movement phase of the lid/flap; and a tensioning device (84) tensioning the first spring against a pretension of the first spring in a second opening movement phase of the lid/flap),

Art Unit: 3677

such that before a fully open position of the lid/flap is reached (from position of Fig. 1 to position of Fig. 2), the first spring is pressed or held into its starting position by the tensioning device.

As to claims 28 and 29, Holzhauer discloses a locking device in the form of a latch may be employed for retaining the first spring tensioned in an opening direction when the lid/flap is in a closed position illustrated by figure 1. Accordingly, the latch may have a release means to permit pivotal movement of the lid/flap away from the body.

***Allowable Subject Matter***

Claims 31-33 are allowed over the prior art made of record.

Claims 8, 9, 15, 18, 19, 21, 23, 24 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to disclose every limitation as set forth in applicant's claims, in particular, a vehicle, the vehicle defines a vehicle body, a flap member, a hinge assembly including first and second links and a gas spring. Wherein, the first spring is tensioned in a closed position of the flap and urges the flap in an opening position and arranged on the vehicle body. The first or second link includes a section in contact with the first spring, which tensions the first spring back into a tensioned position during a second opening position of the flap relative to the vehicle body.

The prior art made of record fails to disclose the combination of structural limitations above, in particular, a section or portion of either the first and second link coming into contact with the first spring to press or position the first spring back into a tensioned-initial position over the course of pivotal movement of the flap from a predetermined opening position to a second opening position.

None of the prior art references disclose such an interaction of working parts or elements or the particular arrangement of these working parts or elements as set forth in applicant's claims.

### ***Response to Applicant's Arguments***

Applicant's arguments filed in the Amendment of March 3, 2006, with respect to the rejection of claims 1-8, 14-23, 25-28 and 31-33 over Nagy have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration of the prior art as a whole and applicant's amendment to the claims, a new ground(s) of rejection is made in view of #6,499,189 to Kondo et al and #4,520,977 to Holzhauser et al. Both references have been made of record and applied in this Action to reasonably but broadly meet the limitations of applicant's claims as currently presented. Accordingly, claims 1-7, 10-14, 16, 17, 20, 22 and 25-29 are found to be unpatentable over Kondo et al and Holzhauser et al respectively. Claims 8, 9, 15, 18, 19, 21, 23, 24 and 30 are objected to.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (10 am - 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**